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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FIFTH APPELLATE DISTRICT**

THE PEOPLE,

Plaintiff and Respondent,

v.

LAINA ANN REAL,

Defendant and Appellant.

F072153

(Stanislaus Super. Ct. No. 1465668)

**OPINION**

**THE COURT\***

APPEAL from a judgment of the Superior Court of Stanislaus County. Thomas D. Zeff, Judge.

Elizabeth J. Smutz, under appointment by the Court of Appeal, for Defendant and Appellant.

Kamala D. Harris, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Michael P. Farrell, Assistant Attorney General, Carlos A. Martinez and Marcia A. Fay, Deputy Attorneys General, for Plaintiff and Respondent.

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\* Before Gomes, Acting P.J., Poochigian, J. and Smith, J.

Laina Ann Real was found in violation of her probation for failing to report to the probation office as ordered by the trial court. She argues the trial court's order is not supported by substantial evidence. We disagree and affirm the judgment.

#### FACTUAL AND PROCEDURAL SUMMARY

In October 2014, Real resolved several cases by pleading no contest to (1) violation of Health and Safety Code section 11377, subdivision (a), felony possession of methamphetamine, (2) violation of Vehicle Code section 23152, subdivision (a), misdemeanor driving under the influence of a drug, and (3) violation of Vehicle Code section 23152, subdivision (e), misdemeanor driving under the influence of a drug. Other counts were dismissed in the interest of justice. The trial court placed Real on three years' felony probation which required her to spend 60 days in jail for the possession count, along with other terms and conditions. Of relevance here, the trial court informed Real she was to report in person to the probation office between the 1st and 15th of each month unless otherwise directed by probation. In addition, she was given a printed sheet with the terms and conditions of probation. As relevant, these terms included the orders that Real was to report to the probation office between the 1st and 15th of each month, and within seven days of any release from custody.

On December 17, 2014, the trial court granted Real's unopposed motion to have the felony possession count reduced to a misdemeanor pursuant to the provisions of newly enacted Penal Code section 1170.18. Real's felony probation was converted to misdemeanor formal probation with the same terms and conditions.

On or about May 15, 2015, an order to show cause was mailed to Real, and filed with the court, requiring Real to appear before the court and show cause why she did not violate her probation by failing to comply with the conditions that required her to report to the probation department.

Three witnesses testified at the hearing held on July 28, 2015. Deputy probation officer Griselda Mendoza testified the records indicated Real was released from custody

on April 24, 2015.<sup>1</sup> A letter was sent to her home address on April 23, 2015, advising her to report to the probation office on May 7, 2015.

When Real failed to appear at the scheduled appointment, the order to show cause was filed by the probation department and sent to Real. Real then appeared at the probation office on May 27, 2015, claiming she did not receive the April 23, 2015, letter even though it was sent to the correct address. Real explained she had reported to the probation office in November 2014, but the receptionist could not find a file related to Real. Mendoza then reviewed the reception log history and could find no evidence that Real had reported to the probation office, even though such information should be recorded in the log.

Real and her daughter-in-law, Brianna Kohl, testified that Real had gone to the probation office in November 2014, but the receptionist could not find a probation file for her. Real also testified she never received the April 23, 2015 letter, and she immediately reported to the probation office when she received the order to show cause.

The trial court found Real had willfully violated the terms of her probation. It revoked probation, then reinstated probation on the same terms and conditions with the added condition that she spend an additional 30 days in jail.

### DISCUSSION

Real argues there is insufficient evidence to support the trial court's finding that she willfully violated the terms of her probation. We disagree.

A trial court may revoke a defendant's probation "if the interests of justice so required and the court, in its judgment, has reason to believe ... that the person has violated any of the conditions of his or her supervision ...." (Pen. Code, § 1203.2, subd. (a).) Trial courts are granted "great discretion in determining whether to revoke probation. [Citation.]" (*People v. Rodriguez* (1990) 51 Cal.3d 437, 445.) The prosecutor

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<sup>1</sup> Real was permitted to report for her jail sentence on January 2, 2015.

bears the burden of proving by a preponderance of the evidence a defendant has violated his or her probation. (*Id.* at pp. 445–446.)

The standard for reviewing claims of sufficiency of the evidence is well established. Our review of the sufficiency of the evidence is deferential. We review the entire record to determine if it discloses evidence which is reasonable, credible, and of solid value such that a reasonable trier of fact would find the defendant had violated his or her probation. (*People v. Hillhouse* (2002) 27 Cal.4th 469, 496; *People v. Superior Court (Jones)* (1998) 18 Cal.4th 667, 681.) We focus on the whole record, not isolated bits of evidence. (*People v. Slaughter* (2002) 27 Cal.4th 1187, 1203, disapproved on other grounds in *People v. Diaz* (2015) 60 Cal.4th 1176, 1189–1190.) We presume the existence of every fact the trier of fact reasonably could deduce from the evidence that supports the judgment. (*People v. Kraft* (2000) 23 Cal.4th 978, 1053.) We will not substitute our evaluations of a witness’s credibility for that of the trier of fact. (*People v. Koontz* (2002) 27 Cal.4th 1041, 1078.)

Real’s argument is based on the contention that in November she contacted the probation department, but was told the department did not have a file for her. In essence, she asserts that she was excused from complying with her reporting obligations because of this omission.

We reject Real’s argument for a variety of reasons. First, the trial court was not required to believe her testimony. We do not resolve evidentiary conflicts. We review the record to determine if adequate evidence supports the order. Mendoza’s testimony provided substantial evidence that Real did not report on a monthly basis as she was ordered.

Second, even if the trial court accepted Real’s testimony, this did not relieve her of the obligation to report to the probation department in December and May, months during which she was out of custody.

Third, even if the requirement to report to the probation department between the 1st and 15th of each months was excused, Real was required to report to the probation department within seven days after being released from custody. Real was released from custody on April 24, 2015, but failed to report to the probation office until May 27, 2015. This was another violation of the terms and conditions of Real's probation.

#### DISPOSITION

The trial court's order finding Real violated the terms of her probation was supported by overwhelming evidence. Accordingly, we affirm the order.